

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNION PACIFIC RAILROAD COMPANY,)	
)	
Plaintiff,)	8:08CV336
)	
vs.)	ORDER
)	
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY, and)	
JANET A. NAPOLITANO, ¹)	
in her official capacity,)	
)	
Defendants.)	

This matter is before the court on the defendants Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 37](#)) and amended Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 40](#)). The defendants filed briefs (Filing Nos. [38](#) and [41](#)) in support of their motions. The defendants seek a stay of discovery and the “Meet and Confer” and report requirements of [Fed. R. Civ. P. 26\(f\)](#), pending resolution of the defendants’ Motion to Dismiss ([Filing No. 34](#)).² The plaintiff did not file any opposition to the defendants’ motion. Upon consideration,

IT IS ORDERED:

1. The defendants’ Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 37](#)) is denied as moot.
2. The defendants’ amended Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 40](#)) is granted.
3. The parties shall have **twenty (20) days** from the date an order is filed on the currently pending motion to dismiss ([Filing No. 34](#)), in which to file a planning report with the court pursuant to [Fed. R. Civ. P. 26\(f\)](#), if necessary.

DATED this 14th day of April, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge

¹ Pursuant to [Rule 25\(d\)](#) of the Federal Rules of Civil Procedure, Janet A. Napolitano, is automatically substituted for Michael Chertoff as the Secretary of Department of Homeland Security.

² In the alternative, the defendants seek to defer the meet and confer requirements until sometime after the planning report had been filed, however [Rule 26\(f\)](#) requires the parties to “meet and confer” **prior** to filing the planning report. Such conference between the parties provides the basis for the planning report.